

Consumer Action

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VIA FEDERAL EXPRESS

January 5, 1995

William F. Caton
Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Re: In the Matter of Policies and Rules Concerning Unauthorized Changes of
Consumers' Long Distance Carriers (CC Docket No. 94-129)

Dear Mr. Caton:

Enclosed please find the original and 9 copies of Consumer Action's Opening
Comments in the above-referenced proceeding.

Should any questions arise in connection with this matter, please contact me
at (415) 777-9648.

Very truly yours,



Ken McEldowney
Executive Director

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

JAN 9 1995

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FCC 94-292

In the Matter of)

Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

CC Docket No. 94-129

OPENING COMMENTS OF CONSUMER ACTION

Consumer Action (CA) welcomes the opportunity to comment on the Federal Communication Commission's Notice of Proposed Rule Making on Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers. We strongly support the Commission's position as necessary to protect consumers.

CA is a San Francisco based, membership-supported, consumer education and advocacy organization that focuses on the telephone and banking problems of low income and limited-English speaking consumers. Through our multilingual complaint switchboard and educational efforts with our network of more than 1,700 community service agencies around the country we have an good understanding of the problems of unauthorized switching of long distance carriers (slamming).

Beginning with equal access in the early 1980s, CA has worked actively on providing consumers with the information they need in choosing their long distance carrier. As a result of our educational efforts, we have received a steady stream of slamming complaints from business and residential consumers for well over 10 years. Steps taken by the Commission have provided some help but haven't stemmed the creativity of those whose goal was short-term profit by any means necessary.

The proposed rules set forth in CC Docket No. 94-129 are needed to block the rise of misleading and confusing letters of agency (LOAs) by interexchange carriers

(IXCs). We believe that the proposed rules are reasonable and carefully balance consumer protection needs and the marketing needs of the carriers.

We have the following comments on the numbered paragraphs set forth in III.A. Proposed Rule:

10. CA recommends that the Commission prescribe specific language for the LOA. The LOA is a formal contract and as such it should have standard language that is devoid of marketing efforts that can confuse the consumer. As an additional benefit, contracts with standardized language would help with educational efforts that CA and other groups would undertake.

11. We strongly agree that the LOA needs to be on a separate piece of paper that is independent of any inducements such as a check or contest entry form. A consumer's focus needs to be on the LOA and its implications. Combining it with inducements does nothing but confuse and mislead. Further, CA believes that the LOA must be a stand alone document separate not only from inducements but from marketing letters or promotional materials as well.

12. We believe that the issue of whether inducements can be mailed in the same envelope as the LOA is tied to the question of LOA language set forth in #11. If the LOA has FCC-specified language and is separate from, and independent of, any marketing or inducement efforts we believe that customer confusion would be minimized. If it's left up to the carrier to write the LOA we fear that their marketing creativity would result in confusion and, in that case, we would argue that separate envelopes be required.

13. As noted in #11, CA believes that the Commission should provide the text of the LOA and it should cover the points set forth in #10. In any case, the type size of the text should be no smaller than 12 point with 18 point headlines. It should be titled "A Request to Change My Long Distance Company".

14. Consumers do not understand how a reseller defers from its underlying

interexchange carrier. We have seen numerous examples of marketing efforts that exploit this confusion causing a person believe that they will stay with their current carrier even if they sign a LOA. CA strongly supports allowing the LOA to only name the IXC that is actually setting the rates. Allowing any mention of other carrier names, regardless of how described, can serve no purpose other than to confuse and mislead.

15. The basic LOA requirements should apply to both residential and business customers. (CA, itself, has been slammed several times.) For residential and business customers, a LOA should only be valid if the person authorized to order long distance presubscription signs it.

16. With an unauthorized switch of carrier, the consumer should not be liable for any calling plan fee or minimum they are charged by their original carrier. The carrier that made the unauthorized switch should pay these charges.

CA believes that the victim of an unauthorized conversion should not be required to pay any long distance charges levied by the offending IXC. Since equal access, the growth of slamming has been fueled by the fact that the offending IXC is able to collect for the long distance calls it bills for. Not only is there no penalty for unauthorized conversions but the IXC is permitted to collect for calls that the victim never wanted it to carry in the first place.

18. The language issue is a major concern of CA. We believe that if any part of the marketing effort, including the inducement, is in a language other than English that the LOA must also be in that language. Again, we would suggest the LOA be prominently headlined "A Request to Change My Long Distance Company", whatever the language.

19. The order verification protections in Sect. 64.1100 should cover in-bound and out-bound calls regardless of how or why the call is initiated. CA believes that even if a consumer dials a number that has been set up to handle carrier changes that the verification protections should apply. Consumers may be responding to a 30-

second television ad and may be calling to get answers to questions. They are as subject to unauthorized conversion as a consumer who was called at home. Further, CA believes that if the proposed LOA rules go into effect IXCs may switch from mailing inducement laden LOAs to mailing marketing pieces in which a consumer is urged to call an 800 number in order to receive a promised inducement. An unauthorized conversion could easily take place on such a call.

CA urges the Commission to adopt the proposed rules with the changes suggested above.

Submitted by,



Ken McEldowney
Executive Director
Consumer Action

Jan. 6, 1995